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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 15, 1993

OUR FILE NO.
1108-101-63

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554


RE: CC Docket No. 92-297
RM-7872; RM-~~7722~~

Dear Ms. Searcy:

Transmitted herewith are an original and nine copies of **REPLY COMMENTS OF EAGLE ENGINEERING & COMMUNICATIONS GROUP, INC.** in the above-referenced proceedings.

Should further information be desired regarding this filing, please communicate directly with this office.

Very truly yours,



Melodie A. Virtue

Enclosures (10)

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APR 15 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before The
Federal Communications Commission
Washington, D.C. 20554

In The Matter Of

Rulemaking to Amend Part 1 and
Part 21 of the Commission's Rules
to Redesignate the 27.5 - 29.5 GHz
Frequency Band and to
Establish Rules and Policies for
Local Multipoint Distribution Service

CC Docket No. 92-297

RM-7872; RM-7722

TO: The Commission

**REPLY COMMENTS
OF
EAGLE ENGINEERING &
COMMUNICATIONS GROUP, INC.**

Eagle Engineering & Communications Group, Inc. ("Eagle"), by counsel, hereby respectfully submits its reply comments in the above-referenced rulemaking proceeding. In support thereof, the following is submitted:

Selection Process. Eagle indicated in its initial comments that it favored the FCC's proposal to select applicants by lottery, and emphasized its concern that use of competitive bidding, if permitted by Congress, would favor well-heeled telecommunications companies. It also expressed its concern that bidding would inflate start-up costs to the detriment of consumers. It is not surprising, therefore, that the two companies supporting competitive bidding and auctions in their comments were BellSouth and Ameritech.

BellSouth, at page 11 of its comments, claimed that "auction prices will drive service applications towards their highest and best use in the marketplace. . . ." Ameritech, at page 7 of its comments, summarizes competitive bidding in these words: "The single criterion for choosing a winner would be objective -- price." Eagle submits the public interest in diversity and competition warrant consideration of applicants on criteria other than price. Driving auction prices to the highest bidder will not serve the interests of diversity or competition if the ultimate winners of such auctions are former Regional Bell Operating Companies.

Structure of Band. Considering the interest expressed by the telephone companies,¹ with at least one suggesting that the Local Exchange Carriers be permitted to integrate LMDS into their existing operations,² and the Commission's desire to encourage competition in the video marketplace with franchised cable companies through the implementation of LMDS,³ it is essential that the Commission allot sufficient spectrum for the independent, non-wireline LMDS operator to compete effectively. Some parties advocate that less than 1,000 MHz be provided per LMDS licensee.⁴ Eagle urges the Commission to allocate, at

¹ A dozen comments were filed by companies favoring the interests of Local Exchange Carriers: BellSouth, Ameritech, U.S. West Communications, Pacific Telesis Group, Sprint, NYNEX Mobile Communications Company, Bell Atlantic Personal Communications, Inc., GTE Service Corporation, United States Telephone Association, Telephone and Data System, Inc., Rochester Telephone Corporation, and, jointly, Rock Hill Telephone Company, Fort Mill Telephone Company, and Lancaster Telephone Company.

² See Comments of Telephone and Data System, Inc., at p.4.

³ *Notice of Proposed Rulemaking, Order, Tentative Decision and Order on Reconsideration*, 8 FCC Rcd. 557, 559 (1993)(¶ 16)(hereinafter "NPRM").

⁴ Specifically, United States Telephone Association suggests that 1,000 MHz for two operators is overly generous. USTA Comments at pp. 4-5. Rock Hill Telephone Company,
(Footnote continued)

a minimum, 1,000 MHz to the commercial LMDS operator. A minimum of 49 channels available for video programming is necessary to compete with cable operators, some of which now have capacity to offer 150 channels. To reduce the amount of spectrum available to a commercial LMDS operator would render LMDS the second class choice of consumers.

Deferral of Rulemaking. Finally, Eagle opposes NASA's proposal to defer the LMDS rulemaking proceeding for five years,⁵ which it hopes will be sufficient time for demand to develop for Fixed Satellite Service ("FSS") usage of the 28 GHz band spectrum subject to re-allocation in this proceeding to LMDS. Demand for other than point-to-point microwave and FSS use of this spectrum already exists, as evidenced by the 971 requests for waiver the Commission dismissed in the *NPRM* and the strong expressions of interest in LMDS asserted by nearly 90% of the parties commenting in this proceeding. To delay implementation of this service to consumers for another five years would not serve the public interest advanced in the proposed redesignation of the spectrum. LMDS, too, will create jobs and spur equipment development to implement this new technology, which is more than just another video programming service.

(Footnote continued)

et al., favor two blocks of 500 MHz each for LMDS operators. Rock Hill Comments at p. 2. Box Spring Educators argues that 1,000 MHz per operator is too large and suggests that there should be two licensees having 34 video channels in one polarization direction and two other licensees with 15 video channels in each service area. Box Spring Educators' Comments at p. 1.

⁵ See NASA comments at pp. 32-33.

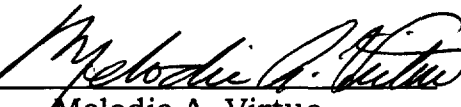
In light of the overwhelming expression of interest expressed in this proceeding, Eagle Engineering & Communications Group, Inc., respectfully requests that the Commission redesignate the 27.5 - 29.5 GHz band for LMDS use.

Respectfully submitted,

**EAGLE ENGINEERING &
COMMUNICATIONS GROUP, INC.**

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By


Melodie A. Virtue
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April 15, 1993

CERTIFICATE OF SERVICE

I, Barbara L. Rascon, a secretary in the law offices of Haley, Bader & Potts, hereby certify that I have on this 15th day of April 1993, sent copies of the foregoing **"REPLY COMMENTS OF EAGLE ENGINEERING & COMMUNICATIONS GROUP, INC."**, by first-class, United States mail, postage prepaid, to the following:

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